

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7391 of 2020**

Rupesh Kumar Sahu, S/o. Duklaha Ram Sahu, aged about 23 years, R/o. Ward No. 4 Ahiwara, Police Station- Nandini, Tahsil and District- Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through - Station House Officer, Police Station- Nandini, District- Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. C.K. Kesharwani, Advocate with Mr. Tarun Dansena, Advocate
For Respondent/State	: Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**23/02/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.174/2020, registered at Police Station – Nandini, District – Durg (C.G.) for the offence punishable under Section 376, 450, 34 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix had been a consenting party, which is reflected from her admission in the cross-examination in the Court statement. The applicant is in jail since 12.08.2020. Hence, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that it is a clear case of commission of offence of rape. Further the prosecutrix is not a hostile witness, before the Court, she has clearly supported the prosecution case, therefore, the application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. Case of the prosecution is this that on the date of incident, this applicant with the help of another co-accused forcefully confined the prosecutrix in a room and then also forcibly had physical relation with her without her consent and willingness, regarding which FIR has been lodged.
6. Considered on the submissions and also perused the copy of the deposition of the prosecutrix. It is found that she is not a hostile witness, the admission or discrepancy whatever i.e. present in her deposition is subject of appreciation by the trial Court itself and no conclusion can be drawn by this Court while considering the bail application. Hence, for this reason, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge